

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

VERSEL GREEN,

Plaintiff,

v.

DECISION AND ORDER
07-CV-60S

NATIONAL GRID, NATIONAL GRID USA
SERVICE COMPANY, INC., NIAGARA MOHAWK
POWER CORPORATION, NIAGARA MOHAWK,
A NATIONAL GRID COMPANY, LOCAL 97

Defendants.

1. Plaintiff commenced this action by filing a Verified Complaint on September 15, 2006, in New York State Supreme Court, Erie County, alleging that his former employers Niagara Mohawk and National Grid terminated his employment for various discriminatory reasons and that his union, Local 97, failed to fairly represent him. On September 16, 2006, Plaintiff filed a virtually identical complaint in this Court under Civil Case Number 06-CV-0629, which, although prepared by counsel, bears some indications that it is being prosecuted by Plaintiff *pro se*. In a separate Order, this Court consolidated that case with the instant case (Docket No. 11).

2. In a Decision & Order dated April 10, 2008, this Court denied the Motion to Dismiss filed by Defendant, Local 97. (Docket No. 10). As to the allegations against Local 97, this Court held that Plaintiff's Complaint failed to comply with the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure and it directed Plaintiff to file and serve

an Amended Complaint setting forth his claims against Local 97 in greater detail within 30 days from the date of the Order. Id. This Court advised Plaintiff that failure to do so or to seek a further extension from this Court may result in the dismissal of Plaintiff's claim against Local 97. Id.

3. Plaintiff failed to file an Amended Complaint within 30 days of the Order and on May 9, 2008, Plaintiff's Counsel filed a Motion for an Extension of Time to Amend. (Docket No. 12). However, the motion was terminated because Plaintiff did not file the motion in the proper format. Plaintiff has neither re-filed the motion in the proper format nor filed an Amended Complaint as directed.

4. On July 1, 2008, this Court issued a Text Order, directing Plaintiff to file an Amended Complaint within 15 days of the Order. (Docket No. 13). This Court again noted that Plaintiff's failure to do so may result in the dismissal of his claim against Local 97. Id. Further, this Court reminded Plaintiff, as well as Defendants, that this Court does not accept communications by e-mail or letter. Id. Plaintiff failed to file an Amended Complaint, as directed by this Court.

5. On July 29, 2008, Defendant, Local 97, filed another Motion to Dismiss. (Docket No. 14). This Court issued a scheduling Order, directing Plaintiff to respond to Defendant's Motion by August 29, 2008. Id. On August 28, 2008, Plaintiff's Counsel filed a Motion for an Extension of Time to File a Response pursuant to the Order dated July 29, 2008. (Docket No. 16). However, the motion was again terminated for failure to file the motion in the proper format. Again, Plaintiff has neither re-filed the motion in the proper format nor served a response to Defendant's Motion to Dismiss pursuant to this Court's Order.

6. On November 12, 2008, Plaintiff filed a Motion for an Extension of Time to File an Amended Complaint, which was originally due 30 days from this Court's April 10, 2008 Order. (Docket No. 20). Predictably, Plaintiff's Counsel submitted the motion in letter format and again the motion was terminated because it was not filed in the proper format.

7. This Court concludes that the prudent course is to direct Plaintiff to file an Amended Complaint, setting forth its claims against Local 97 within fifteen (15) days of this Order. This is Plaintiff's final warning. Failure to do so will result in the dismissal of Plaintiff's claims against Local 97. As a result, this Court will not issue a scheduling Order, at this time, on Local 97's Motion to Dismiss. (Docket No. 14). Plaintiff's Amended Complaint should, of course, include its allegations and claims against the other Defendants, as well as the new allegations against Local 97. If Plaintiff fails to file his Amended Complaint as directed, this case will proceed on the initial Complaint against the remaining Defendants, and this Court will issue all appropriate scheduling orders at that time.

8. Additionally, this Court notes that Defendants, Niagara Mohawk, A National Grid Company, National Grid, National Grid USA Service Company, Inc., and Niagara Mohawk Power Corporation, have a Motion for Judgment on the Pleadings, or alternatively to dismiss, which is currently pending. (Docket No. 17).

IT IS HEREBY ORDERED that Plaintiff must file and serve an Amended Complaint within fifteen (15) days of this Order. Failure to do so will result in the dismissal of Plaintiff's claims against Local 97. Further, this is Plaintiff's final warning and Plaintiff will not be entitled to any extensions of time;

FURTHER, that the Clerk of the Court is ordered to mail a copy of this Order addressed to Plaintiff at:

120 Meyer Rd. #603
Amherst, NY 14226

SO ORDERED.

Dated: November 25, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge